

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

WILLIAM L. GARRETT, JR.,

Plaintiff,

v.

Civil Action No. 2:08-1150

DENVER RUSSELL, MARK CRAWFORD,
PAUL LYTTLE, JANET PAYNE,
JOHN C. YOUNG, BRIAN GREENWOOD,
MR. BOSTIC, MR. MIKE SAWYER,
MR. PAUL PERRY, CCO MAJOR ROBERT RHODES,
DAVID BALLARD, LARRY PETTEY, and
KATHY DILLION,,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the Proposed Findings and Recommendation entered by the magistrate judge on October 21, 2008. The magistrate judge recommends that the court find that the plaintiff has filed more than three actions which have been dismissed as frivolous or as failing to state a claim upon which relief can be granted, and that the allegations of the instant complaint do not suggest that Plaintiff is in imminent danger of

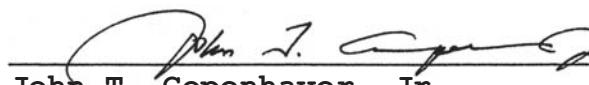
serious physical injury. The magistrate judge further recommends that the court deny the plaintiff's application to proceed without prepayment of fees and costs. The plaintiff has not objected to the Proposed Findings and Recommendation. The court concludes that the recommended disposition is correct.

Accordingly, it is ORDERED that:

1. The Proposed Findings and Recommendation be, and they hereby are, adopted by the court; and
2. Plaintiff's Application to Proceed Without Prepayment of Fees and Costs be, and it hereby is, denied.

The Clerk is directed to forward copies of this written opinion and order to the pro se plaintiff, all counsel of record, and the United States Magistrate Judge.

DATED: December 10, 2008


John T. Copenhaver, Jr.
United States District Judge